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addition to her partnership share if she would consent to the sale. Plaintiffs knew nothing of this arrangement, but perfected the sale and transfer for \$500,000. They now claim an interest in this \$44,444.45 as a partnership asset. *Held*, that the widow should account for the money so received. *Comstock v. McDonald* (1904), — Mich. —, 101 N. W. Rep. 55.

The court placed the decision on the ground that the relation of partnership is one requiring the utmost good faith, and that secret arrangements by which one member was to receive more for firm property than others was a breach of that faith. *Latta v. Kilbourn*, 150 U. S. 541, 14 Sup. Ct. 201, 37 L. Ed. 1169; *Todd v. Rafferty's Adm.*, 30 N. J. Eq. 254; *McMahon v. McClernan*, 10 W. Va. 419; *Lowry v. Cobb*, 9 La. Ann. 492. The strong dissenting opinion pointed out that plaintiffs were not defrauded nor damaged in any way by the widow's act. They received what they asked for the property and were satisfied. The additional sum was merely an inducement to encourage the widow to consent to a contract to which they had already assented. It is difficult to see how the application of this latter rule could work injury to anyone. The courts, however, go to great lengths in favoring the partnership relation. As illustrations of this tendency see *Hodge v. Twitchell*, 33 Minn. 389, and *Fenning v. Chadwick*, 3 Pick. 420. The rule by the overwhelming weight of authority is that the partnership relation forbids a member to "assume a position which would ordinarily excite a conflict between his individual interest and a faithful discharge of his fiduciary duties."

PLATS—DEDICATION—PURCHASER'S RIGHTS IN STREETS.—A corporation platted a large tract of land adjoining a town. The plat was not recorded. One avenue of the plat ran diagonally through the tract, cutting off one corner of plaintiff's lot, sold with reference thereto, making an 18 foot frontage along the avenue. Defendant, as successor of the original vendors, made and executed a new plat with all the streets intersecting at right angles. Lots were sold and residences erected on the land designated as the diagonal avenue. Under the new plat a triangular lot cut off plaintiff's 18 foot frontage. Plaintiff brings suit to compel the defendant to record the first plat as the true plat of the addition, and to open the diagonal avenue as laid down in that plat. *Held*, a mandatory injunction should be issued to compel the performance of both demands. *Edwards v. Moundsville Land Co.* (1904), — W. Va. —, 48 S. E. Rep. 754.

The defendant's contention that the avenue was never legally dedicated to the public, that the new plat was an advantage to the plaintiff, and that the plaintiff should be estopped by not objecting to the public sale of the lots under the new plat and the erection of buildings thereon was held unavailing under the settled doctrine of the court that the plat or plan is a unity, and that a purchaser acquires a right in all the public ways designated thereon, and may force the dedication. *Cook v. Totten*, 49 W. Va. 177, 87 Am. St. Rep. 792; *ELLIOTT, ROADS AND STREETS*, § 120; *DILLON, MUNIC. CORP.*, § 640. The cases cited by these authors to sustain the proposition are numerous. In many of them the facts do not warrant the broad statement given. The doctrine has been denied in *Squire v. Campbell*, 1 Myl. & Cr. 468; *Parsons v.*

*Allen*, 151 Mass. 79; *Baltimore v. Frick*, 82 Md. 77, and in the dissenting opinion of DOUGLAS, J., in *Collins v. Land Co.*, 128 N. Car. 563. In view of the facts, it would seem that more substantial justice could have been obtained by giving force and effect to the second plat, and compensating the plaintiff for any resulting damage.

**PLATS—VACATION—DEDICATION TO PUBLIC.**—One Bell platted an addition to the city of Chicago, in which he sold two lots. A statute permitted the owner, before selling any lots thereon, to vacate any plat or part of a plat. After selling lots it could be done with consent of the purchasers, in which case all rights of the city would be divested. In attempted compliance with this statute Bell recorded an instrument vacating a part of the plat on which no lots had been sold. The portion thus vacated became, by mesne conveyance, the property of appellant. After 33 years from the purported vacation the city brings proceedings to levy a special assessment on appellant's property to improve a street designated in that portion of the plat which was thus vacated. *Held*, the attempted vacation was ineffective, and the special assessment could be levied. *Saunders v. City of Chicago* (1904), — Ill. —, 72 N. E. Rep. 13.

Three judges dissented on the ground that under the statute the consent of lot owners in one part of a plat was not needed to vacate another and different portion, where no lots had been sold. That at all events none but lot owners could object, that none had objected, that their right to object was now lost, and therefore that the vacation was effective. The majority based their construction of the statute and the equities of the case upon the common law doctrine that if lots are sold with reference to a recorded plat, that plat is to be regarded as a unity, and the owner of lots in any portion of the plat can prevent a vacation of any other portion, all of the streets being deemed irrevocably dedicated to the public. See preceding note.

**RAILROADS—CONSOLIDATION—CONDAMNING DISSENTING STOCK.**—A North Carolina statute (1901) confers authority on any railroad or transportation company, now or hereafter incorporated by the state of North Carolina, with the approval of a majority of its stockholders, to consolidate with the Seaboard Air Line Company, and provides for assessing and paying the value of dissenting stock. Plaintiff, a dissenting stockholder, was the owner of seven shares of stock in one of the defendant consolidating companies, the Raleigh & Gaston R. Co., which shares were issued prior to the Constitution of 1868, which first reserved to the state the right to amend charters granted by it. The plaintiff refused to sell his stock, and brought an action demanding judgment that the consolidation be declared ultra vires and void as to him, that an accounting be rendered and a receiver appointed. *Held*, that the statute authorized an exercise of the power of eminent domain, but did not impair the obligation of a contract. *Spencer et al. v. Seaboard Air Line Ry. Co. et al.* (1904), — N. C. —, 49 S. E. Rep. 96.

For comment see NOTE AND COMMENT, ante p. 309.

**SALES—LIABILITY OF SELLER ON A COLLATERAL WARRANTY.**—Defendant sold to plaintiff a car load of scrap iron. The sale, which was made orally, was